SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1950

No. 142

JOE GOSSMAN,

Appellant,

vs.

PEOPLE OF THE STATE OF CALIFORNIA, ET AL.

APPEAL FROM THE DISTRICT COURT OF APPEAL OF THE STATE OF CALIFORNIA, SECOND APPELLATE DISTRICT

JURISDICTIONAL STATEMENT

That the rulings of the Courts below were of such nature so as to bring the case within the Statutory provisions of (R. S. 709) Title 28 U. S. C. 1257 page 88, whereby jurisdiction is conferred on this Court; That in being denied bail, and having been found guilty of an offense positively not included in the charge, the validity of U. S. Revised Statutes secs. 1015 and 1035 have been drawn into question; That 28 days after having been denied a hearing by the Supreme Court of the State of California, on the 16th day of Feb. 1950, appeal was settled, defendant was finally given credit for having served sentence, the bond on appeal

was exonerated, and the case has been concluded in the Court of first instance (Judge Walter S. Gates presiding).

> "Sec. 31 Cal. Veh. Code, defines a 'Vehicle' as a device in, upon or by which any person or property is or may be propelled, moved or drawn upon a highway, excepting a device moved by human power or used exclusively upon stationary rails or tracks."

Which is repugnant to the Constitution Tit. 1 sec. 4, defines "Vehicle" as including all means of land transportation (U. S. C.) (App. Op. Br. p. 30, Rep. Br. p. 12); That the validity of sections 501 and 502 Cal. Veh. Code were raised in App. Op. Br. p. 26 & 29, Rep. Br. p. 2 & 12, wherein appellant set forth that sec. 501 does not include the Words "It is unlawful for any person who is under the influence of intoxicating liquor to drive a vehicle upon any highway", also appellant pointed out legislative failure to enact a statute defining what it is or consists of to be under such influence, likewise that interpolation is forbidden and/or the decision was against the validity of R. S. U. S. 1035 and Title I, U. S. C. A. VI, Constitutional Construction and interpretation of Words VI. Title 1 U. S. C. A. VI, the maxim of jurisprudence that penal Statutes must be strictly construed is set forth in App. Rep. Br. p. 2, 9 also in U. S.-N. Y. and U. S. Utah "Crime MUST be defined with appropriate definiteness and there MUST be ascertainable, as well as reasonable standards of guilt," *Winters* v. *Peo. of State of N. Y.*, 68 S. Ct. 665; 333 U. S. 507; 92 L. Ed.; *Musser* v. *State of Utah*, 68 S. Ct. 397; 333 U. S. 95; That in (supra) appellant's briefs the validity of Sections 501 and 502 were assailed "The validity of a Statute is drawn into question whenever the power to enact it, as it is by its terms, or is made to read by construction, is fairly open to denial, and is denied" *Miller* v. *Cornwall R. Co.*,

Pa. 1897, 18 S. Ct. 34; 168 U. S. 132; 42 L. Ed. 409; In regard to the applicable test to ascertain guilt, Los Angeles Police Dept. rule 520 has never been enacted into law, "It is not competent to delegate to a Department the power to declare what facts shall constitute an offense, *U. S.* v. *Louisville R. Co.*, D. C. Ala. 1910; 176 F. 942; U. S. C. A. Art. I sec. 1 "There can be no valid delegation of legislative authority" *Prather* v. *U. S.*, 17 S. Ct. 997, 164 U. S. 452, 41 L. Ed. 510; said federal questions were raised in App. Op. Brief p. 29. Also on p. 32 claim was set forth involving violation of Const. of U. S. Art. VI sec. 2, Amendments IV, V, VI, VII, VIII, XIV, U. S. Revised Statutes sec. 1917, 1979, 1982, 5504, 5508, 5509, 5510, 5534-36. Conspiracy is shown in Clerks Tr. p. 11, 12, 13, & 15 and set forth in App. Op. Br. p. 23 & 31; attached are petitions to, and denial by the State Supreme Court and opinion of the District Court of Appeal refusing to consider substantial rights set forth in appellant's briefs.

(S.) JOE GOSSMAN.